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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/080,801	02/22/2002	Richard Jupe	4981*339 (PM-1979)	9921

7590 06/03/2003

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EXAMINER

WALLS, DIONNE A

ART UNIT	PAPER NUMBER
1731	

DATE MAILED: 06/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

AS5

<b>Office Action Summary</b>	Applicant No.	Applicant(s)
	10/080,801	JUPE ET AL.
	Examiner Dionne A. Walls	Art Unit 1731

-- The MAILING DATE of this communication appears in the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM  
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on \_\_\_\_.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-43 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_ is/are allowed.  
 6) Claim(s) \_\_\_\_ is/are rejected.  
 7) Claim(s) \_\_\_\_ is/are objected to.  
 8) Claim(s) 1-43 are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 11) The proposed drawing correction filed on \_\_\_\_ is: a) approved b) disapproved by the Examiner.  
 If approved, corrected drawings are required in reply to this Office action.  
 12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
 \* See the attached detailed Office action for a list of the certified copies not received.  
 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
 a) The translation of the foreign language provisional application has been received.  
 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____.
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.	6) <input type="checkbox"/> Other: ____.

## DETAILED ACTION

### ***Election/Restrictions***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-20 and 32-34, drawn to a cigarette having a filter with adsorbent bed, ventilation and flavor-releasing component, classified in class 131, subclass 335.
  - II. Claims 21-22, drawn to a filter for a smoking article with absorbent section, an RTD-inducing segment and a flavor-releasing segment, classified in class 131, subclass 341.
  - III. Claims 23-31 and 36-43, drawn to a cigarette filter with adsorbent-bearing flavor-releasing segment, and an additional flavor-releasing segment classified in class 131, subclass 335.
  - IV. Claim 35, drawn to a cigarette having a filter with adsorbent bed of activated carbon, and ventilation, classified in class 131, subclass 342.

The inventions are distinct, each from the other because of the following reasons:

2. The above inventions are related as combination and subcombination.

Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, between Inventions I/II; II/III; and II/IV, the combination as claimed does not require the particulars of the subcombination as claimed because the cigarette/cigarette filter of Inventions I, III and IV do not require

the RTD-inducing segment of the filter of Invention II. The subcombination has separate utility such as a cigarette filter having varying resistances to draw. Between Inventions I/III and III/IV, the combination as claimed does not require the particulars of the subcombination as claimed because the cigarette of Inventions I and IV do not require a flavor-releasing segment in addition to an additional flavor-releasing segment of the filter of Invention III. The subcombination has separate utility such as a cigarette filter imparting added flavor to the smoke stream. And, lastly, between Inventions I/IV, the combination as claimed does not require the particulars of the subcombination as claimed because the cigarette of Invention IV does not require the ventilation of the filter of Invention I. The subcombination has separate utility such as a cigarette filter having the ability to lower mainstream smoke velocity due to the ventilation.

3. Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, the search required for Group II is not required for Group II, etc. restriction for examination purposes as indicated is proper.

4. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim

remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dionne A. Walls whose telephone number is (703) 305-0933. The examiner can normally be reached on Mon-Fri, 7AM - 4:30PM (Every other Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven P. Griffin can be reached on (703) 308-1164. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0661.



Dionne A. Walls  
May 31, 2003